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In re Application of	:	OFFICE OF PETITIONS
Cho, et al.	:	
Application No. 10/802,615	:	DECISION GRANTING
Filed: July 21, 2004	:	PETITION
Attorney Docket No. 27763-703.301	:	

This is a decision on the petition filed November 2, 2004, to accord the above-identified application a filing date of March 16, 2004.

On March 16, 2004, the application was deposited.

On June 2, 2004, the Office of Initial Patent Examination mailed a Notice stating that drawings were missing and that a filing date would be accorded upon receipt of the missing items. On July 21, 2004, petitioners submitted, *inter alia*, 11 sheets of drawings and a statement that the drawings were part of parent application no. 10/038,197, filed November 9, 2001, which was incorporated by reference in the above-identified application upon filing.

The Office processed the drawings and accorded a filing date of July 21, 2004 to the application.

In response, the present petition alleges that Utility Patent Application Transmittal sheet and a preliminary amendment incorporated by reference the entire disclosure of the parent application. The petition states that the drawings in the parent and continuation are identical. Petitioners request the application, including the 11 sheets of drawings submitted on July 21, 2004, be accorded a filing date of March 16, 2004.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on March 16, 2004, albeit in the file of another application, i.e., application No. 10/038,197. Therefore, on petition, the application may be accorded the requested filing date of March 16, 2004. A petition was required to accord the application the requested filing date. Therefore, deposit account no. 23-2415 will be charged a \$130.00 petition fee.

In view of the above, the petition is **granted**. The copy of the drawings submitted on July 21, 2004 will be used for examination purposes.¹

¹ The Office assumes that the drawings are a true and exact copy of the drawings filed in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant drawings to the drawings in the parent application in order to verify that the drawings are, in fact, present in the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 16, 2004, using the application papers filed on March 16, 2004 and the copy of the drawings filed on July 21, 2004.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

A handwritten signature in cursive script, reading "E. Shirene Willis".

E. Shirene Willis
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy